

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Case No. 22-22359-shl

MARK STEVEN ACKER,  
Debtor.

Chapter 7

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**CONDITIONAL NON-OPPOSITION TO TRUSTEE'S APPLICATION FOR ORDER (i) SCHEDULING AUCTION SALE OF THE REAL PROPERTY AT 47 TRANQUILITY ROAD, SUFFERN, NEW YORK AND HEARING TO APPROVE SALE, (ii) APPROVING TERMS AND CONDITIONS OF SALE, (iii) APPROVING BIDDING PROCEDURES, AND (iv) APPROVING NOTICE PROVISIONS**

COMES NOW PNC Bank, National Association, ("PNC Bank") herein, by and through its attorneys, Aldridge Pite, LLP, and for its response to Trustee's Application For Order (i) Scheduling Auction Sale Of The Real Property At 47 Tranquility Road, Suffern, New York And Hearing To Approve Sale, (ii) Approving Terms And Conditions Of Sale, (iii) Approving Bidding Procedures, And (iv) Approving Notice Provisions ("Trustee's Motion"), and states as follows:

1. PNC Bank is the holder of a mortgage dated May 10, 2005, secured by the premises known as 47 Tranquility Rd, Suffern, NY 10901 ("Property"). A copy of the Note, Mortgage are attached hereto as Exhibit "A".

2. PNC does not oppose the Trustee's Motion. PNC's non-opposition is contingent upon the following provisions being included in any Order Approving the Trustee's Sale:

a. PNC Bank is authorized to submit an updated payoff demand to the Chapter 7 Trustee and/or his counsel prior to the closing of the sale;

b. PNC Bank, must receive the full payoff balance within 7 days of the payoff letter with accrued interest added daily to each day past the payoff date.

c. The payoff amount must be sent to the address provided on PNC Bank's payoff letter;

d. In the event the payoff amount received is less than the payoff demand submitted by PNC Bank, PNC Bank has the right to refuse the funds sent;

e. PNC Bank shall be paid adequate protection payments until the sale is completed, as determined by the Court;

f. Any short sale must be approved by PNC Bank; AND

g. To the extent there is a dispute over the amount required to payoff PNC Bank's lien, the Trustee is required to tender the undisputed portion of the payoff to PNC Bank and keep the remaining proceeds in a segregated interest-bearing account that includes a cushion of \$3,000.00 to pay for PNC Bank's attorneys' fees and costs in the event PNC Bank successfully prevails in an action to recover the disputed proceeds. The proceeds shall remain in this account pending the resolution of the disputed portion of the payoff. If PNC Bank successfully defends against any dispute regarding the payoff it shall be entitled to its reasonable attorneys' fees and costs incurred with respect to such action.

WHEREFORE, PNC Bank, National Association respectfully prays this Court enter an Order granting Trustee's Motion which contains the provisions listed herein, and for such other Orders this Court deems appropriate.

Date: September 29, 2023

ALDRIDGE PITE, LLP

/s/ Jenelle C. Arnold  
By: Jenelle C. Arnold, Esq.  
*Attorneys for PNC Bank, National Association.*  
40 Marcus Drive, Suite 200  
Melville, New York 11747  
(631) 454-8059

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the Response to Trustee's Motion to Sell  
was mailed by U.S. First Class Mail the September 29, 2023 to the parties listed below:

Mark Steven Acker  
2305 Round Pointe Drive  
Haverstraw, NY 10927

Julie Cvek Curley  
Kirby Aisner & Curley LLP  
700 Post Road  
Suite 237  
Scarsdale, NY 10583

Dawn Kirby  
Kirby Aisner & Curley, LLP  
700 Post Road  
Suite 237  
Scarsdale, NY 10583

Trustee  
Howard P. Magaliff  
Howard P. Magaliff - Chapter 7 Trustee  
335 Madison Avenue  
9th Floor  
New York, NY 10017

U.S. Trustee  
United States Trustee  
Office of the United States Trustee - NY  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1408

Shannon Anne Scott  
DOJ-Ust  
Office of the United States Trustee SDNY  
Alexander Hamilton Custom House  
One Bowling Green, Suite 534  
New York, NY 10004-1408

Respectfully submitted,

/s/ Jenelle C. Arnold, Esq.  
By: Jenelle C. Arnold, Esq.  
Attorneys for Bank of America, N.A.  
40 Marcus Drive, Suite 200  
Melville, New York 11747  
(631) 454-8059